

DFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Richard RUSSELL et al.)	Group Art Unit: 2631
Application No.: 10/830,222)	Examiner:
Filed: April 23, 2004)	Confirmation No.: 7748
For: METHOD AND APPARATUS FOR)	
VIDEO ON DEMAND)	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In an Office Action dated May 23, 2008, the Examiner alleges that restriction to one of the following inventions is required under 35 U.S.C. §121:

- I. Claims 1-3, 6-8, 12, 15-16, and 19-26 are drawn to "direction finding or location determination" in navigation, classified in class 348, subclass 116; and
- II Claims 4-5, 9-11, 13-14, 17-18, 27-43 drawn to aerial surveillance, classified in class 348, subclasses 144 and 148.

Applicants hereby provisionally elect Group I, claims 1-3, 6-8, 12, 15-16, and 19-26, for prosecution on the merits. This election is made with traverse.

Applicants submit that the restriction requirement is in error. It is believed that in examining the non-elected claims, the Examiner will search the same classes of art as is required to search the invention of the elected claims, resulting in the same references being cited against both of the aforementioned groups of claims.

Thus, this restriction will not reduce the workload of the U.S. Patent and Trademark Office or simplify prosecution of the application. As set forth in M.P.E.P. § 803, there are two criteria for a proper restriction requirement between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious

burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional restriction is hereby made without prejudice to Applicants' right to file a divisional application or applications should the restriction and election requirements become final.

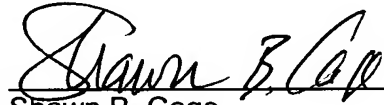
Should any questions arise regarding this reply, or the application in general, Applicants' undersigned representative can be reached at the telephone number given below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date June 23, 2008

By:


Shawn B. Cage
Registration No. 51522

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620